IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2699 OF 2006

Chandrasen Ramji Karia & ors.... Petitioner

versus

Shree Cuthci Lohana Biwas Griha
Trust and ors. ... Respondents.

Shri K.H.Holambe Patil for the petitioner.
Shri S.R.Nargolkar AGP for Respdts. 14/15.
Shri S.Shah with Mr.Naik for Respondent no.1.
Ms. E.Gonsalves for Respondent no.16.

CORAM; V.G. PALSHIKAR &
V.R. KINGAONKAR, JJ.

DATED; 28TH APRIL, 2006.

P.C:

1. By this petition, the petitioner has challenged the sanction to sell the property immovable in nature, granted by the Charity Commissioner under section 36 of the Bombay Port Trust Act to the public trust concerned as per the order impugned.

2. It is true that there may not be any appeal against the order under section 36(1) available for the petitioner to pursue. But the petitioner, certainly, has efficacious remedy of appropaching the Charity Commissioner under section 36(2) of the B.P.T. Act. Sub section (2) of section 36 very clearly provides that Charity Commissioner may revoke the sanction given

by him under section (1) on the ground that the Charity Commissioner has not looked into other facts relevant to the grant of sale, which were consealed from the Charity Commissioner by the person seeking sanction. This remedy is completely adequate remedy for any person aggrieved by the sanction granted under section 36(1).

3. Apart from that the challenge is based on three grounds. Firstly, the sanction is alleged to be bad because the lease of the property deemed to be sold is over in the year 2002 and therefore after that year the trust cannot sell the property. Secondly it is contended that the trust has no right to transfer because the lease have already come to an end. Thirdly, it is contended that the property of 4/5 crores is being sold for Rs. 82 lacs. If first two submissions are factually correct then the purchaser, by reason of transfer effected on the basis of sanction under section 36(1), will be getting expired lease. In such circumstances, we find no reason to interfere with the order passed by the Charity Commissioner under section 36(1) of the BPT Act. However the petitioner shall be at liberty to make an application under section 36(2) of BPT Act if so advised. Petition accordingly disposed of.

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